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OF COUNSEL

CORCORAN, CA. 93021
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1 A PERSON WHOSE PETITION WAS DISMISSED FOR FAILURE TO EXHAUST
2 STATE COURT REMEDIES CAN FILE A NEW HABEAS PETITION
3 AFTER COMPLYING WITH THE EXHAUSTION REQUIREMENTS -
4 STEWART V. MARTINEZ-VILLAREAL (1998) 523 U.S. 637 [118 S.Ct. 1618; 140
5 L.Ed.2d 849] SLACK V. MCDANIEL (2000) 529 U.S. 473 [120 S.Ct.
6 1595; 146 L.Ed.2d 542] ANTHONY V. CAMBRA (9TH CIR. 2000) 236 F.3d 568.
7 ^{CONTENSION;} APPEALS COUNSEL ON DIRECT APPEAL RENDERED INEFFECTIVE ASSISTANCE
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20 AS DEFINED BY THE STATE CRIMINAL CODES - SEE JACKSON V.
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22 WHERE A JURY INSTRUCTION ALLOWED JURY TO CONVICT ON EVIDENCE
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27 499 U.S. 279, 331 [111 S.Ct. 1246; 113 L.Ed.2d 302] (GIVING EXAMPLES OF
28 STRUCTURAL DEFECTS); RAMIREZ V. HATCHER (9TH CIR. 1998) 136 F.3d 1209

FILED

06 AUG 25 AM 9:13

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PDC

BY

DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ERIC W. BURTON,

Petitioner,

v.

PEOPLE OF THE STATE OF CALIFORNIA,

Respondent.

Civil No. 06-1441 JM (POR)

**ORDER DISMISSING CASE
WITHOUT PREJUDICE**

Petitioner, a state prisoner proceeding pro se, has filed a Petition for Writ of Habeas Corpus [Doc. No. 1], a motion for retrial [Doc. No. 2], and points and authorities in support a retrial. [Doc. No 3]. This Court construes these three documents together as a Petition for Habeas Corpus pursuant to 28 U.S.C. §2254. Petitioner has not paid the \$5.00 filing fee and nor has he moved to proceed in forma pauperis.

FAILURE TO SATISFY FILING FEE REQUIREMENT

Because this Court cannot proceed until Petitioner has either paid the \$5.00 filing fee or qualified to proceed in forma pauperis, the Court **DISMISSES** the case without prejudice. See Rule 3(a), 28 U.S.C. foll. § 2254. If Petitioner wishes to proceed with this case, he must submit, **no later than October 20, 2006**, a copy of this Order with the \$5.00 fee or with adequate proof of his inability to pay the fee.¹

¹ For Petitioner's convenience, a blank motion to proceed in forma pauperis is attached to this Order.

Q-1-TV

ENTERED ON 8/25/06

FAILURE TO ALLEGE EXHAUSTION

Moreover, the Petition must be dismissed because Petitioner has failed to allege exhaustion of state judicial remedies. Habeas petitioners who wish to challenge either their state court conviction or the length of their confinement in state prison, must first exhaust state judicial remedies. 28 U.S.C. § 2254(b), (c); *Granberry v. Greer*, 481 U.S. 129, 133-34 (1987). To exhaust state judicial remedies, a California state prisoner must present the California Supreme Court with a fair opportunity to rule on the merits of every issue raised in his or her federal habeas petition. 28 U.S.C. § 2254(b), (c); *Granberry*, 481 U.S. at 133-34. Moreover, to properly exhaust state court remedies a petitioner must allege, in state court, how one or more of his or her federal rights have been violated. The Supreme Court in *Duncan v. Henry*, 513 U.S. 364 (1995) reasoned: "If state courts are to be given the opportunity to correct alleged violations of prisoners' federal rights, they must surely be alerted to the fact that the prisoners are asserting claims under the United States Constitution." *Id.* at 365-66 (emphasis added). For example, "[i]f a habeas petitioner wishes to claim that an evidentiary ruling at a state court trial denied him [or her] the due process of law guaranteed by the Fourteenth Amendment, he [or she] must say so, not only in federal court, but in state court." *Id.* at 366 (emphasis added).

Nowhere on the Petition does Petitioner allege that he raised his claims in the California Supreme Court. If Petitioner has raised his claims in the California Supreme Court he must so specify. "The burden of proving that a claim has been exhausted lies with the petitioner." *Matthews v. Evatt*, 105 F.3d 907, 911 (4th Cir. 1997); *see Breard v. Pruett*, 134 F.3d 615, 619 (4th Cir. 1998); *Lambert v. Blackwell*, 134 F.3d 506, 513 (3d Cir. 1997); *Oyler v. Allenbrand*, 23 F.3d 292, 300 (10th Cir. 1994); *Rust v. Zent*, 17 F.3d 155, 160 (6th Cir. 1994).

Further, the Court cautions Petitioner that under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) a one-year period of limitation shall apply to a petition for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of:

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

No. 08-10005
2/10/05

(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

28 U.S.C.A. § 2244(d)(1)(A)-(D) (West Supp. 2002).

★ The statute of limitations does not run while a properly filed state habeas corpus petition is pending. 28 U.S.C. § 2244(d)(2); see *Nino v. Galaza*, 183 F.3d 1003, 1006 (9th Cir. 1999). But see *Artuz v. Bennett*, 531 U.S. 4, 8 (2000) (holding that “an application is ‘properly filed’ when its delivery and acceptance [by the appropriate court officer for placement into the record] are in compliance with the applicable laws and rules governing filings.”). However, absent some other basis for tolling, the statute of limitations does run while a federal habeas petition is pending. *Duncan v. Walker*, 533 U.S. 167, 181-82 (2001).

Rule 4 of the Rules Governing Section 2254 Cases provides for summary dismissal of a habeas petition “[i]f it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court . . .” Rule 4, 28 U.S.C. foll. § 2254. Here, it appears plain from the Petition that Petitioner is not presently entitled to federal habeas relief because he has not alleged exhaustion of state court remedies.

FAILURE TO NAME PROPER RESPONDENT

Moreover, review of the Petition reveals that Petitioner has failed to name a proper respondent. On federal habeas, a state prisoner must name the state officer having custody of him as the respondent. *Ortiz-Sandoval v. Gomez*, 81 F.3d 891, 894 (9th Cir. 1996) (citing Rule 2(a), 28 U.S.C. foll. § 2254). Federal courts lack personal jurisdiction when a habeas petition fails to name a proper respondent. See *id.*

The warden is the typical respondent. However, “the rules following section 2254 do not specify the warden.” *Id.* “[T]he ‘state officer having custody’ may be ‘either the warden of the

1 institution in which the petitioner is incarcerated . . . or the chief officer in charge of state penal
 2 institutions.” *Id.* (quoting Rule 2(a), 28 U.S.C. foll. § 2254 advisory committee’s note). If “a
 3 petitioner is in custody due to the state action he is challenging, ‘[t]he named respondent shall
 4 be the state officer who has official custody of the petitioner (for example, the warden of the
 5 prison).’” *Id.* (quoting Rule 2, 28 U.S.C. foll. § 2254 advisory committee’s note).

6 A long standing rule in the Ninth Circuit holds “that a petitioner may not seek [a writ of]
 7 habeas corpus against the State under . . . [whose] authority . . . the petitioner is in custody. The
 8 actual person who is [the] custodian [of the petitioner] must be the respondent.” *Ashley v.*
 9 *Washington*, 394 F.2d 125, 126 (9th Cir. 1968). This requirement exists because a writ of
 10 habeas corpus acts upon the custodian of the state prisoner, the person who will produce “the
 11 body” if directed to do so by the Court. “Both the warden of a California prison and the Director
 12 of Corrections for California have the power to produce the prisoner.” *Ortiz-Sandoval*, 81 F.3d
 13 at 895.

14 Here, Petitioner has incorrectly named “The People of the State of California,” as
 15 Respondent. In order for this Court to entertain the Petition filed in this action, Petitioner must
 16 name the warden in charge of the state correctional facility in which Petitioner is presently
 17 confined or the Director of the California Department of Corrections. *Brittingham v. United*
 18 *States*, 982 F.2d 378, 379 (9th Cir. 1992) (per curiam).

19 PETITION MAY BE DUPLICATIVE

20 Finally, while it is not entirely clear from the face of the petition, it appears the Petition
 21 may be challenging the same conviction as a petition previously filed with this court. Petitioner
 22 is cautioned that the Court may dismiss a duplicative petition as frivolous if it “merely repeats
 23 pending or previously litigated claims.” *Cato v. United States*, 70 F.3d 1103, 1105 n.2 (9th Cir.
 24 1995) (citations omitted). Here, Petitioner has filed two petitions for habeas corpus with this
 25 Court. The Petition in this case was filed on July 17, 2006. Another habeas petition which
 26 appears to challenge the same conviction was filed in case number 06cv1384 L (JMA), on July
 27
 28


1 5, 2006. The petition in 06cv1384 was dismissed without prejudice on August 7, 2006.²
2 Petitioner is cautioned that he may challenge the same conviction with only one petition for
3 habeas corpus filed with the Court.

4 **CONCLUSION**

5 For the foregoing reasons, the Petition is DISMISSED without prejudice for (1) failure
6 to satisfy the filing fee requirement, (2) failure to allege exhaustion of state judicial remedies,
7 and (3) failure to name a proper respondent. Further, Petitioner is cautioned that he may proceed
8 with a challenge to the same conviction in only one case filed as a petition for habeas corpus.
9 In order to have this case reopened, Petitioner must, no later than October 20, 2006, satisfy the
10 filing fee requirement and file a First Amended Petition curing the deficiencies outlined above.

11 **IT IS SO ORDERED.**

12 DATED: 8/23/06


Jeffrey T. Miller
United States District Judge

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14 CC: ALL PARTIES
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28 ² The petition in 06cv1384 was dismissed for failure to pay the filing fee and because the Court must abstain from interfering with the ongoing state criminal proceedings pursuant to the abstention doctrine of *Younger v. Harris*, 401 U.S. 37 (1971).

Court of Appeal, Fourth Appellate District, Div. 1 - No. D049846
S152584

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re ERIC W. BURTON on Habeas Corpus

The petition for review is denied.

**SUPREME COURT
FILED**

JUN 20 2007

Frederick K. Orlinck Clerk

DEPUTY

GEORGE

Chief Justice

QUESTION(S) PRESENTED

Whether petitioner's Federally guaranteed U.S. Constitutional right to a fair trial was violated by the guidelines of the U.S. constitution by the state courts

Whether petitioner's Federally U.S. Guaranteed 14th amend constitutional Due process rights and equal protection under federal law was violated by the state court's and police agency

whether petitioner's 6th amend. U.S. const. confrontation clause was violated.

Whether petition's federally U.S. guaranteed constitutional right to self representation was improperly denied by a failure to rule on a timely ~~Faretta~~ Faretta pro se motion

Whether federal sentencing guidelines were violative of petitioner's U.S. Constitutional federally guaranteed right to not be sentenced and receive enhancements for a crime not charged or proven.

Whether petitioner received BATSON error

Whether Failure of trial court to give specific jury instructions deprived petitioner of his right to make a defense as guaranteed by the U.S. Constitution

Q. 10 Whether The State ^{trial} Appellate ^{process} court erred on all issues raised, ~~on direct review~~ as petitioner's Federally guaranteed U.S. Const. rights to a fundamentally fair trial was violated by the state California court.

REASONS FOR GRANTING THE PETITION

Petitioner's fundamental rights to a fair trial have been violated.

Petitioner's Federally guaranteed U.S. Constitutional 14th amendment Due process and Equal protection clause's have been violated.

Petitioner is unlawfully imprisoned, convicted and sentenced in violation of his ~~14th~~ 14th amendment rights against police unlawful intrusion ^{IN HIS REASONABLE EXPECTATION} — petition~~er~~ has been the subject of a previously ruled 4th amendment violation of warrantless police unlawful entry search and seizure of property from his home.

Petitioner was denied his 6th amendment U.S. Federally guaranteed constitutional right to self representation.

P ~~_____~~ ^{ENJOY EMB}
violated

- OF PRIVACY. —

STATEMENT OF THE CASE

Appellant was charged in an amended information with attempted willful, deliberate, premeditated murder (pen. Code, #664,187, 189 subd.(a), with the further allegations that he used a firearm (Pen. Code #12022.5, subd. (a), discharged a firearm proximately causing great bodily injury (Pen. Code, #12022.53 subd. (d), and

See Attached pages (2 and 3)

inflicted great bodily injury (Pen. Code, § 12022.7, subd. (a)) in count 1, discharge of a firearm from a motor vehicle (Pen. Code, § 12034, subd. (c)), with the further allegations that he used a firearm (Pen. Code, § 12022.5, subd. (a)), discharged a firearm proximately causing great bodily injury (Pen. Code, § 12022.53, subd. (d)), and inflicted great bodily injury (Pen. Code, § 12022.7, subd. (a)) in count 2, assault with a semiautomatic firearm (Pen. Code, § 245, subd. (b)) with the further allegations that he used a firearm (Pen. Code, § 12022.5, subd. (a)) and inflicted great bodily injury (Pen. Code, § 12022.7, subd. (a)) in count 3, and child abuse/endangerment (Pen. Code, § 273a, subd. (a)), with the further allegation that he used a firearm (Pen. Code, § 12022.5, subd. (a)) in count 4. (C.T. 7-10.)

Following an eight-day jury trial, appellant was convicted of attempted willful, deliberate, premeditated murder (Pen. Code, §§ 664, 187, 189 subd. (a)) in count 1, discharge of a firearm from a motor vehicle (Pen. Code, § 12034, subd. (c)) in count 2, and assault with a semiautomatic firearm (Pen. Code, § 245, subd. (b)) in count 3. As to counts 1-3, the jury found true the firearm and great bodily injury allegations (Pen. Code, §§ 12022.5, subd. (a), 12022.53, subd. (d), 12022.7, subd. (a)). (C.T. 278-284.) Appellant was acquitted of child abuse/endangerment (Pen. Code, § 273a, subd. (a)) in count 4. (C.T. 288.)

After denying appellant's motion for new trial, the court sentenced appellant to an indeterminate term of life, plus 25 years

to life in count 1. The court stayed the sentence on counts 2 and 3. (Pen. Code, § 654.) (C.T. 387-388.) The court also ordered appellant to pay a \$10,000 restitution fine (Pen. Code, § 1202.4, subd. (b)), a \$10,000 parole revocation fine (Pen. Code, § 1202.45), and a \$17,838.57 direct victim restitution fine (Pen. Code, § 1202.4, subd. (f)). (C.T. 388.) Appellant was given credit for 669 days spent in custody, consisting of 582 actual days and 87 good time/work time local conduct credits. (C.T. 388.)

Appellant filed a timely notice of appeal from the judgment of conviction and sentence. (C.T. 313-320.)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution 14th Amendment, Due Process Clause;
Equal Protection Clause.

U.S. Constitution Sixth Amendment
Due process principles

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7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF CALIFORNIA
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10 ERIC WILTON BURTON,

11 Petitioner,

12 v.

13 HERNANDEZ, Warden,

14 Respondent.

Civil No. 06cv1384-L (JMA)

**ORDER DENYING IN FORMA
PAUPERIS APPLICATION AS MOOT
[Docket No. 3]**

15 On July 5, 2006, Petitioner, a state prisoner proceeding pro se, filed a Petition for Writ
16 of Habeas Corpus pursuant to 28 U.S.C. § 2254. The Court dismissed the Petition because
17 Petitioner had failed to pay the filing fee or move to proceed in forma pauperis, and based on the
18 abstention doctrine announced in Younger v. Harris, 401 U.S. 37 (1971), as resolution of
19 Petitioner's claims would require interference with ongoing state proceedings. (See Aug. 2,
20 2006 Order at 1-3.) Although the dismissal was without prejudice to Petitioner to proceed with
21 his claims in state court, the dismissal was without leave to amend his action in this Court. (Id.)
22 Petitioner subsequently filed a Motion to Proceed In Forma Pauperis which is moot in light of
23 the dismissal order.

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1 Accordingly, the Court **DENIES** the request to proceed in forma pauperis as moot. This
2 action remains **DISMISSED** without leave to amend. The Clerk shall close the file.

3 **IT IS SO ORDERED.**

4 DATED: May 14, 2007

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6 M. James Lorenz
7 United States District Court Judge

8 CC: ALL PARTIES
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SUPREME COURT
FILED
JUN 14 2007

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA
SAN FRANCISCO CALIFORNIA DISTRICT

DEPUTY

IN RE APPLICATION OF AND IN
THE MATTER OF ERIC WILTON BURTON
#FO2720 PETITIONER, DEFENDANT
FOR RETRIAL PURSUANT TO U.S. AGORS

CASE NO: S153203; COURT OF APPEAL,
FOURTH APPELLATE DISTRICT, DIV I
NO. D047617; SUP. COURT OF SAN DIEGO
COUNTY NO. SCE238643

(1976) 427 U.S. 97, 49 LEd 2d 342, 96 S.Ct. 2392.

DATE: 6-12-07

BASED ON 14TH U.S. CONST. AMEND. VIOLATIONS

FOR FAILURE TO DISCLOSE EXCULPATORY

EVIDENCE.

V.

KEN CLARK, WARDEN - CSATF/SP

RESPONDENT AND THE PEOPLE / PLAINTIFF / RESPONDENT

NOTICE OF MOTION

AND MOTION TO WITHDRAW

DISMISS, TERMINATE AND ~~RECALL~~

PETITION FOR RETRIAL

TO ~~RECALL~~ PURSUANT TO U.S. AGORS

(1976) 427 U.S. 97, 49 LEd 2d 342, 96 S.

CT. 2392. FILED IN THIS COURT

6-4-07 WITHOUT DETERMINATION

REQUEST FOR COURT TO GIVE

IMMEDIATE NOTICE TO ALL

PARTIES INVOLVED IN THE

INSTANT MATTER

FOR GOOD CAUSE INTENDING, NOTICE IS HEREBY

GIVEN TO THE ABOVE HONORABLE SUPREME COURT AS SOON AS THE

MATTER MAY BE HEARD. PETITIONER ERIC WILTON BURTON #FO2720 A

PRISONER AT CSATF/SP, CORCORAN, CA, MOVES THIS COURT TO DISMISS THIS

CASE WITHOUT DETERMINATION. FOR PETITIONER HAS ERRED. PETITIONER

INTENDED TO FILE FOR A "NEW TRIAL" NOT A RETRIAL IN THE INTEREST OF JUSTICE.
STATEMENT OF FACT: AS OF DATE 6-12-07 PETITIONER/DEFENDANT STILL HAS NOT RECEIVED DISCOVERY
PURSUANT TO 1054.9. DEFENDANT HAS MADE AN UNSUCCESSFUL ATTEMPT TO GAIN DISCOVERY FROM TRIAL
COUNSEL AND HAS RECENTLY AS OF 6-8-07 MOTIONED THE TRIAL COURT PURSUANT TO BRADY 1054.9. PENDING.

1 SO IT IS FOR THIS GOOD FAITH CAUSE THAT PETITIONER/DEFENDANT ASKS OF
 2 THIS HONORABLE SUPREME COURT TO DISMISS THIS PETITION WITHOUT
 3 PREJUDICE AND LEAVE FOR PETITIONER TO REFILE PETITION ON THE
 4 SAME OR SIMILAR GROUNDS. FOR A NEW TRIAL IN THE INTEREST AND
 5 FURTHERANCE OF JUSTICE IN PETITIONERS QUEST FOR FREEDOM FROM
 6 INCARCERATION FROM AN UNLAWFUL ARREST, PROSECUTION, CONVICTION, AND
 7 SENTENCING FROM VIOLATIONS OF AN UNCONSTITUTIONAL MAGNITUDE
 8 OF A FEDERALLY GUARANTEED RIGHT TO LIFE, LIBERTY AND FREEDOM AND
 9 14TH AMENDMENT DUE PROCESS OF LAW AND EQUAL PROTECTION OF ALL
 10 ITS CITIZENS. THIS IS PETITIONERS/DEFENDANTS ONLY MEANS TO ACCESS COURTS DUE TO PRISON LOCKDOWN.

11 PRAYER FOR RELIEF- PETITIONER HUMBLY PRAYS THAT THIS FINE
 12 HONORABLE COURT WILL GRANT THIS MOTION TO DISMISS THIS CASE
 13 ERRONEOUSLY FILED WITHOUT THE GUIDANCE OF COUNSEL, AS PETITIONER IS
 14 A DISADVANTAGED LEGALLY BLIND PRISONER FROM GLAUCOMA, ALSO A LAYMAN
 15 UNTRAINED IN LAW OR IT'S APPLICATION, HAS RECENTLY DISCOVERED HE
 16 HAS MADE A MISTAKE INTENDING TO FILE FOR A NEW TRIAL. HE PRAYS
 17 OF THIS COURT THAT THIS CASE BE DISMISSED ^{AND} OR LEAVE GRANTED TO
 18 CORRECT HIS ERROR IN THE INTEREST OF JUSTICE AND FURTHERANCE
 19 OF JUSTICE AND THAT THIS HONORABLE COURT GIVE NOTICE TO ALL PARTIES.

20 CONCLUSION- THIS MOTION IS TIMELY AS AN ORDER TO SHOW
 21 CAUSE HAS NOT YET BEEN EITHER ISSUED NOR RECEIVED BY PETITIONER/
 22 DEFENDANT. DEFENDANT SHOWING GOOD FAITH AND CAUSE.

23 DECLARATION- BY THE LAWS UNDER THE PENALTY OF PERJURY
 24 GOVERNING THE UNITED STATES, THE AFOREMENTIONED STATEMENTS
 25 ABOVE AND WITHIN ARE TRUE AND CORRECT, signed Eric Wilton Burton # F07720

ERIC WILTON BURTON

DATED 6-12-07

Court of Appeal, Fourth Appellate District, Div. 1 - No. D049846
S152584

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re ERIC W. BURTON on Habeas Corpus

The petition for review is denied.

SUPREME COURT
FILED

JUN 20 2007

Frederick K. Orlin Clerk

DEPUTY

GEORGE

Chief Justice

Court of Appeal, Fourth Appellate District, Div. 1 - No. D047617
S153203

IN THE SUPREME COURT OF CALIFORNIA

En Banc

THE PEOPLE, Plaintiff and Respondent,

v.

ERIC BURTON, Defendant and Appellant.

SUPREME COURT
FILED

JUL 11 2007

Frederick K. Ohlrich Clerk

Deputy

The appellant's motion to withdraw the petition for review filed in propria persona is granted.

The petition for review is denied.

GEORGE

Chief Justice

MARY JAMESON
AUTOMATIC APPEALS SUPERVISOR

JORGE NAVARRETE
SUPERVISING DEPUTY CLERK

SAN FRANCISCO

NATALIE ROBINSON
SUPERVISING DEPUTY CLERK

LOS ANGELES



Supreme Court of California

FREDERICK K. OHLRICH
COURT ADMINISTRATOR AND
CLERK OF THE SUPREME COURT

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July 18, 2007

Eric W. Burton, F-02720
California State Prison – Corcoran
P.O. Box 5246, SP-C1-132L
Corcoran, CA 93212

Re: **S152584 – Burton (Eric) on H.C.**

Dear Burton:

Return unfiled is your petition for rehearing received July 11, 2007. The order denying your petition for review in the above-referenced matter was final forthwith and may not be reconsidered. Please rest assured, however, that the petition, and the contentions made therein, were considered by the entire court, and that the denial expresses the decision of the court on this matter.

Very truly yours,

FREDERICK K. OHLRICH
Court Administrator and
Clerk of the Supreme Court

A handwritten signature in black ink, appearing to be "J. Perez", written over the printed name.

By: J. Perez
Deputy Clerk

Court of Appeal, Fourth Appellate District, Div. 1 - No. D047617
S153203

IN THE SUPREME COURT OF CALIFORNIA

En Banc

SUPREME COURT
FILED

THE PEOPLE, Plaintiff and Respondent,

JUL 11 2007

v.

Frederick K. Ohlrich Clerk

ERIC BURTON, Defendant and Appellant.

DEPUTY

The appellant's motion to withdraw the petition for review filed in propria
persona is granted.

The petition for review is denied.

GEORGE

Chief Justice

MARY JAMESON
AUTOMATIC APPEALS SUPERVISOR

JORGE NAVARRETE
SUPERVISING DEPUTY CLERK

SAN FRANCISCO

NATALIE ROBINSON
SUPERVISING DEPUTY CLERK

LOS ANGELES



Supreme Court of California

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Very truly yours,

FREDERICK K. OHLRICH
Court Administrator and
Clerk of the Supreme Court

A handwritten signature in dark ink, appearing to be "J. Perez", is written over the typed name.

By: J. Perez
Deputy Clerk